

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DELL, INC.,

Plaintiff,

v.

ADVICON COMPUTER SERVICES, INC, and
DANIEL ELLES,

Defendants.

Case Number 06-11224
Honorable David M. Lawson
Magistrate Judge Virginia Morgan

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND HOLDING DEFENDANTS IN CONTEMPT OF COURT**

Presently before the Court is the report issued on May 8, 2007 by Magistrate Virginia Morgan pursuant to 28 U.S.C. § 636(b), recommending that this Court hold the defendants in contempt of court. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 50] is **ADOPTED**.

It is further **ORDERED** that the defendants, Daniel Elles and Advicon Computer Services, Inc., are found in civil **CONTEMPT** of Court.

It is further **ORDERED** that the contempt may be purged as follows: in addition to satisfying the conditions imposed through the magistrate judge's orders dated May 8, 2007 and May 23, 2007 [dkt #s 49 & 53], the defendants shall: (1) immediately recall from their business partners, customers, and all others within their control, all Dell-related products, literature, labels, advertising and other materials of a counterfeiting, infringing, misleading, diluting, tarnishing or unfair nature; (2) immediately turn over to Dell for destruction all Dell-related packaging, literature, signage, advertising, labels, and other materials of a counterfeit, infringing, misleading, diluting, tarnishing, or unfair nature; and (3) file with the Court and serve on counsel for Dell a report in writing under oath setting forth in detail the manner and form in which each defendant has complied with the terms of this order on or before **June 18, 2007**.

It is further **ORDERED** that the plaintiff shall personally serve a copy of this order on each of the defendants on or before **June 6, 2007**.

It is further **ORDERED** that the plaintiff shall provide notice to the Court of the defendants' compliance with this order. If the defendants fail to comply and purge the contempt, the plaintiff may seek relief directly with this Court, not the magistrate judge.

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: May 31, 2007

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 31, 2007.

s/Felicia M. Moses

FELICIA M. MOSES